

Minneapolis City Planning Department Report

Variance Request
BZZ-944

Hearing Date: December 11, 2002

Applicant: Chad Faircloth

Address of Property: 530 36 ½ Avenue NE

Contact Person and Phone: Chad Faircloth, 612.788.9837

Planning Staff and Phone: Nicole Peterson, 612.673.5887

Ward: 3 **Neighborhood Organization:** Columbia Park Neighborhood Association

Existing Zoning: R1A

Proposed Use: Deck

Proposed Variance: Chad Faircloth has applied for a variance to reduce the east interior side yard setback from the required 5 feet to 1-foot to allow the already constructed deck to remain at 530 36 ½ Avenue NE.

Zoning code section authorizing the requested variance: 525.520 (1)

Background: The applicant is proposing to keep the already constructed portion of the deck that is located in the required east interior side yard.

Findings Required by the Minneapolis Zoning Code:

1. **The property cannot be put to a reasonable use under the conditions allowed by the official controls and strict adherence to the regulations of this zoning ordinance would cause undue hardship.**

Interior side yard setback: The applicant could construct a 16 square foot landing and 4-foot wide stairway to access the side door under the zoning ordinance (535.280 Permitted Obstructions – Stairs). The applicant has indicated that the deck is needed for proper water drainage. However, staff consulted the Public Works Department and they recommended drain tile or a retaining wall instead of the deck.

2. **The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.**

Interior side yard setback: The circumstances have been created by the person presently having an interest in the property, and are not unique to the parcel. There are several homes with interior side yard doors in the immediate neighborhood.

3. **The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.**

The purpose of yard requirements is set forth in 535.220. Yard controls are established to provide for the orderly development and use of land and to minimize conflicts among land uses by regulating the dimension and use of yards in order to provide adequate light, air, open space and separation of uses.

The proposed deck would impede on the neighbors' open space, as it leaves only 1 foot from the property line. Furthermore, the essential character of the locality would be altered, in that, all neighboring homes with side doors currently provide stoops, instead of wrap-around decks. Granting the variance may set an unwanted precedent.

4. **The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.**

Interior side yard setback: Granting the variance would likely have no impact on congestion of area streets, public welfare or public safety. However, the deck may increase the danger of fire because of the close proximity to the neighboring home.

Recommendation of the City Planning Department:

The City Planning Department recommends that the Board of Adjustment adopt the findings above and **deny** the variance to reduce the south interior side yard setback from the required 5 feet to 1 foot to allow a deck addition.